

**TOWNSHIP OF BERKELEY HEIGHTS  
UNION COUNTY, NEW JERSEY  
COUNCIL MEETING HELD SEPTEMBER 24, 2013**

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**CALL TO ORDER**

At 7:00 p.m. Mayor Bruno called the meeting to order and stated that adequate notice of this meeting has been provided by posting the same on the bulletin board of Town Hall and forwarding a copy to the Courier News and Star Ledger at least forty-eight hours prior to the meeting, all in accordance with the Open Public Meetings Act. This meeting will not go substantially past 10:30 p.m.

**ROLL CALL**

Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff, Mrs. Kingsley, Mr. Hall and Mayor Bruno answered present. Also present was Township Attorney Joseph Sordillo, Township Administrator Linda Cavanaugh and Township Clerk Ana Minkoff.

**EXECUTIVE SESSION – Attorney-Client Privilege/Personnel – Police  
Attorney-Client Privilege/Litigation - DPW**

Moved by Mr. Hall to go into Executive Session, seconded by Mr. Woodruff and upon roll call vote:  
**(7:03 p.m.)**

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff, Mrs. Kingsley and Mr. Hall  
Nays: None  
Abstain: None  
Absent: None

Moved by Mr. Hall to go out of Executive Session, seconded by Mr. Woodruff and upon roll call vote:  
**(7:44 p.m.)**

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff, Mrs. Kingsley and Mr. Hall  
Nays: None  
Abstain: None  
Absent: None

**FLAG SALUTE**

Mayor Bruno asked everyone present to stand as he led the Flag Salute.

**CONFERENCE SESSION**

**Discussion of the Government Energy Aggregation Act of 2003 and its impact on New Jersey  
Municipalities presented by Good Energy, LLC**

Mayor Bruno said there would be a discussion on the Government Energy Aggregation Act of 2003 and a presentation by Good Energy LP. This is a program to help save the residents on the energy bills in town.

Fred Profeta and co-founder of the Sustainable Jersey Program along with Mr. Barrios, President of Good Energy, LP made a presentation on energy aggregation and explained the program and how it operates in detail.

The discussion continued in length with the Mayor and Township Council asking questions.

## **APPROVAL OF MINUTES**

Moved by Mrs. Kingsley to approve the following Township Council Minutes, seconded by Mr. Woodruff and upon roll call vote:

### **Public Meeting – September 10, 2013**

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff, Mrs. Kingsley and Mr. Hall  
Nays: None  
Abstain: None  
Absent: None

## **TOWNSHIP COUNCIL REPORTS**

Mr. Delia thanked the VFW for putting on the pig roast on Sunday. They did a great job again.

Mr. Pastore had nothing to report.

Mr. Pirone spoke about the Governor setting aside three million dollars for the desnagging of downed trees in the Passaic River and about a deadline for the County to get the information together so these funds can be applied for. He also spoke about having to suspend the spring clean-up this year and using that money to clear the streams. He hopes to have the program back in place next year.

Mayor Bruno added there is a meeting scheduled on Friday with the County to discuss how we can receive a portion of that grant. Money is tight but we should be able to make a pitch to get money to finish up the streams.

A discussion continued.

Mr. Woodruff had nothing to report.

Mrs. Kingsley had nothing to report.

Mr. Hall wished Township Administrator Linda Cavanaugh a Happy Birthday.

Township Administrator Linda Cavanaugh reported the UPS and the generator are all on schedule. The UPS has been delivered and should be working shortly and we should be getting the specs for the generator shortly. Mrs. Cavanaugh also reported the CFO has advised her the notice of sale has been issued for the tax refunding notes. The sale will be on October 1<sup>st</sup> and the closing will be October 9<sup>th</sup>. She has also met with some department heads to insure the equipment purchased with the capital funds is identified and tracked appropriately. Mrs. Cavanaugh gave an update on the Passaic River clean-up and spoke about a letter received from the NJDEP regarding the County involvement. Mrs. Cavanaugh asked Assistant Director of Public Works, Jorge Casacuberta to give an update on the status of the clean-up of the streams.

Jorge Casacuberta, Assistant Director of Public Works gave an update on the status of the clean-up of the streams. Mr. Casacuberta answered questions from the Mayor and Township Council regarding the stream clean-up.

There was a discussion on the stream clean-up and the grant money available for the clean-up.

Mrs. Cavanaugh also reported on the asphalt work and the chipping programs that have been completed by the DPW. Mrs. Cavanaugh spoke about a problem at the Primrose School construction site with regard to fencing. That problem has been resolved. Mrs. Cavanaugh also reported on the status of the traffic study for the intersection of Hamilton Avenue and Snyder Avenue. She has been working with Mr. Bocchino and Sgt. Dietch with regard to the traffic study. Mrs. Cavanaugh also reported the Connell agreement has gone to Connell and their attorney has some minor comments and is supposed to get back to her this week. Mrs. Cavanaugh also gave an update on the removal of the dead trees in the right-of-way that have been identified by the Environmental Commission. She added we expect to be moving on this project very shortly. Mrs. Cavanaugh also reported she received an estimate from the IT Company for the DPW cameras and gate and she explained further.

Mr. Hall added members of the Environmental Commission had specifically earmarked the trees that should be taken down. We hope to go out to bid and have some of these trees removed before the end of the year.

Mayor Bruno thanked the Council President, Council Vice-President and the Administrator for making sure the town ran smoothly while he was on vacation. Mayor Bruno reported he received a letter from Senator Kean that we were awarded between \$15,000 and \$20,000 legislative state forestry grant for the preservation of trees. Mayor Bruno also reported October 13<sup>th</sup> is the Berkeley Heights Fire Department annual car show with a rain date of October 20<sup>th</sup>. It is a big fund raiser for that organization. Mayor Bruno spoke in length about the stream clean-up and what is being done and the continual maintenance that is needed.

Moved by Mr. Pirone to accept and approve the Township Council Reports, seconded by Mrs. Kingsley and upon roll call vote:

Ayes:	Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff, Mrs. Kingsley and Mr. Hall
Nays:	None
Abstain:	None
Absent:	None

#### **HEARING ON AGENDA ITEMS ONLY**

Moved by Mr. Pastore to open the Hearing on the Agenda Items Only, seconded by Mr. Woodruff and upon roll call vote:

Ayes:	Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff, Mrs. Kingsley and Mr. Hall
Nays:	None
Abstain:	None
Absent:	None

Mrs. Matula of 5 Hastings referred to resolution #3 and asked what is the Corrective Action Plan.

Mayor Bruno responded it is a component of the Audit and he explained further these are items that we need to implement in our work process.

Mrs. Matula referred to resolution #4 and asked what the appraised value of the bus is.

Mayor Bruno responded there is no value to the bus and it will be used by the Fire Department for training purposes.

Mrs. Cavanaugh added the bus was taken off the road several years ago because it was deemed unsafe and too expensive to repair. It has not been used in several years. Mrs. Cavanaugh explained further that

our mechanic felt it was unsafe and too expensive to repair. Mrs. Cavanaugh continued in length about the condition of that bus.

Gerald Kuzmick of Eaton Court spoke about the grant money for the Passaic River. He asked if desnagging incorporates dredging of the river.

Mayor Bruno responded the Township does not have the equipment for dredging. That is why you get the State and the County involved because if that is what is necessary to make the river 100%, you will need their assistance. Desnagging and removing these dams caused by the fallen trees will help the flow of the river.

Mr. Kuzmick continued with his comments regarding the clean-up of the river.

The discussion continued in length.

Tom Foregger of 14 Dorsett Road spoke about the spring clean-up and the cost. Mr. Foregger felt it would be more economical for the individual homeowner to have a hauler pick up an item if necessary. He asked the Township Council to consider having the clean-up expenditure.

Mayor Bruno responded to Mr. Foregger's remarks regarding the clean-up and he said he received many emails because this service was not done this year. He added a lot of residents feel that this is a service they have had and paid for it in their taxes. They feel this is something they did have and we are now taking it away to clean a river.

A discussion continued on the spring clean-up.

Mr. Foregger referred to the Audit Report and spoke about the recommendations and asked who would make sure these procedures are being done.

Mayor Bruno responded it is the responsibility of the CFO to make sure that we comply.

A lengthy discussion continued.

Mr. Foregger referred to resolution #5 and asked if the permit fee ordinance authorizes the Council to waive a permit fee.

Mayor Bruno responded he will check into it. This is affordable housing money and it was given to assist these residents.

Mr. Foregger asked what the Connell agreement was that Mrs. Cavanaugh mentioned in her reports.

Joseph Sordillo, Township Attorney responded it relates to the off duty police services provided to the Connell property. We are currently negotiating the contract and we cannot discuss specific terms.

Mayor Bruno asked Joseph Sordillo to check into whether we can waive the construction permit fees for the rehabilitation program.

Joseph Sordillo responded the Township is authorized to waive construction fees for affordable housing purposes and on behalf of itself as well.

Mrs. Luciano of Mountain Avenue said the senior bus was purchased through a grant and she asked if there is any possibility of receiving another grant for a new bus.

Mayor Bruno said there is always a possibility that there is a grant available for a new bus. He added we will take advantage of every grant that we know about. We will look into the possibility of a grant to purchase a bus.

Mrs. Luciano also spoke about the street outside of Mt. Carmel Hall and said is in bad need of repairs and she understands it is the town's responsibility. She said the asphalt is a mess. She is concerned for the seniors that go to their meeting.

Mayor Bruno will have the DPW look into it.

Stephen Yellin of 130 Dogwood Lane asked if he should ask questions on the Council correspondence during the Hearing on the Agenda Items or the Citizens Hearing.

Mr. Hall responded during the Citizens Hearing.

Hearing no voices, moved by Mr. Pastore to close the Hearing on the Agenda Items Only, seconded by Mr. Woodruff and upon roll call vote:

Ayes:	Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff, Mrs. Kingsley and Mr. Hall
Nays:	None
Abstain:	None
Absent:	None

## **NEW BUSINESS- RESOLUTIONS OFFICIAL ACTION WILL BE TAKEN ON THE FOLLOWING**

### **RESOLUTIONS**

#### **Mr. Delia introduced the following resolution:**

1. Resolution approving Bill List dated September 24, 2013 in the amount of \$210,989.98.

Moved by Mr. Delia to approve resolution #1, seconded by Mr. Woodruff and upon roll call vote:

Ayes:	Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff, Mrs. Kingsley and Mr. Hall
Nays:	None
Abstain:	None
Absent:	None

#### **Mr. Hall introduced the following resolution:**

2. Resolution stating that the Council has personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled "Comments and Recommendations".

Moved by Mr. Hall to approve resolution #2, seconded by Mrs. Kingsley and upon roll call vote:

Ayes:	Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff, Mrs. Kingsley and Mr. Hall
Nays:	None
Abstain:	None
Absent:	None

#### **Mrs. Kingsley introduced the following resolution:**

3. Resolution approving the Corrective Action Plan and authorizing the Chief Financial Officer to implement such plan.

Moved by Mrs. Kingsley to approve resolution #3, seconded by Mr. Pirone and upon roll call vote:

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff, Mrs. Kingsley and Mr. Hall  
Nays: None  
Abstain: None  
Absent: None

**Mr. Woodruff introduced the following resolution:**

4. Resolution authorizing the private sale for nominal consideration of the 1993 Thomas Bus, to the Berkeley Heights Fire Department for its training exercises.

Moved by Mr. Woodruff to approve resolution #4, seconded by Mr. Pastore and upon roll call vote:

Ayes: Mr. Pastore, Mr. Pirone, Mr. Woodruff, Mrs. Kingsley and Mr. Hall  
Nays: Mr. Delia  
Abstain: None  
Absent: None

**Mr. Pastore introduced the following resolution:**

5. Resolution authorizing construction permit fees to be waived for the Berkeley Heights Housing Rehabilitation Program Projects.

Moved by Mr. Pastore to approve resolution #5, seconded by Mr. Hall and upon roll call vote:

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff, Mrs. Kingsley and Mr. Hall  
Nays: None  
Abstain: None  
Absent: None

**Mr. Pirone introduced the following resolution:**

6. Resolution authorizing a change order with Miracle Chemical Company, in the amount not to exceed \$9,119.50 for a new contract amount of \$20,343.50.

Moved by Mr. Pirone to approve resolution #6, seconded by Mr. Pastore and upon roll call vote:

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff, Mrs. Kingsley and Mr. Hall  
Nays: None  
Abstain: None  
Absent: None

**Mr. Woodruff introduced the following resolution:**

7. Resolution awarding a contract for the removal of wood chips and other tree parts to Riversedge Contracting, LLC, 3092 Hutchinson River Road, Phillipsburg, NJ 08865, in the amount of \$34,449.00.

Moved by Mr. Woodruff to approve resolution #7, seconded by Mr. Pastore and upon roll call vote:

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff, Mrs. Kingsley and Mr. Hall  
Nays: None  
Abstain: None  
Absent: None

## **CONSENT AGENDA**

All matters listed under Consent Agenda are considered routine by the Township Council and will be enacted upon by one motion; there will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

### **Mr. Pastore introduced the following resolutions:**

**(8)**

- a. Resolution authorizing the closure of Hamilton Avenue between Plainfield Avenue and Roosevelt Avenue for the BHFD Annual Car Show on October 13, 2013 from 9:00 – 4:00 p.m. with a rain date of October 20, 2013.
- b. Resolution authorizing a block party on Cornell Avenue on October 26,, 2013 from 3:00 pm- 10:00 pm.
- c. Resolution appointing Matt DeAngelis, 42 Maple Avenue, Berkeley Heights, to the Junior Fire Division.
- d. Resolution appointing Thomas Balsamo, 40 Lancelot Drive Berkeley Heights N.J. to the Junior Fire Division.
- e. Resolution appointing Joseph Colder, 153 Chaucer Drive, Berkeley Heights N.J. to the Junior Fire Division.
- f. Resolution appointing Kyle Ulen, of the Junior Division to the active roster of the Berkeley Heights Fire Department.
- g. Resolution appointing, Anthony Iarussi of the Junior Fire Division to the active roster of the Berkeley Heights Fire Department.
- h. Resolution authorizing the Tax Collector to refund the following 2013 tax overpayment:

1. Eric & Christy Henry	90 Delmore Avenue.	\$360.57
2. Thomas & Christina Lewis	126 Fairview Avenue	\$206.43
3. Philip & Kim Spellman	100 Kline Blvd..	\$503.29
4. Carol A. Yuch	10 Arthurs's Court	\$1,783.67
- i. Resolution proclaiming the week of November 18, 2013, as “Band Appreciation Week” in recognition of Governor Livingston Highlander Band.

### **ADDITION:**

- j. Resolution authorizing a block party for Sycamore Avenue on Saturday, September 28, 2013 from 1:00 p.m.- 8:00 p.m. with a rain date of September 29, 2013.
- k. Resolution authorizing a block party for Lenape Lane, on Saturday, September 28, 2013 from 2:00 p.m. – 8:00 p.m. with a rain date of September 29, 2013.

Moved by Mr. Pastore to approve Consent Agenda resolutions #8a-k, seconded by Mrs. Kingsley and upon roll call vote:

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff, Mrs. Kingsley and Mr. Hall  
Nays: None  
Abstain: None  
Absent: None

**ADDITION:**

**ORDINANCES**

**INTRODUCTION OF ORDINANCE**

**Public Hearing and Final Adoption scheduled for October 8, 2013:**

The Clerk presented and read:

**(1)"AN ORDINANCE OF THE TOWNSHIP OF BERKELEY HEIGHTS, COUNTY OF UNION, STATE OF NEW JERSEY, AMENDING, REVISING AND SUPPLEMENTING THE TOWNSHIP LAND USE ORDINANCE TO ESTABLISH AND AMEND THE REGULATIONS GOVERNING THE REQUIREMENTS FOR DEVELOPER'S AGREEMENTS IN CONNECTION WITH LAND USE APPROVALS."**

**(Explanation: This ordinance amends the Township's Land Use Ordinances to modify and amend the requirements for Developer's Agreements in connection with land use approvals.)**

Moved by Mr. Hall that the ordinance as read by the Township Clerk is offered on first reading and the date of 10/8/13 is set as the date for public hearing and the Township Clerk is directed to advertise it in the Courier News, seconded by Mr. Pastore and upon roll call vote:

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff, Mrs. Kingsley and Mr. Hall  
Nays: None  
Abstain: None  
Absent: None

**CITIZENS HEARING**

Moved by Mrs. Kingsley to open the Citizens Hearing, seconded by Mr. Pirone and upon roll call vote:

Ayes: Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff, Mrs. Kingsley and Mr. Hall  
Nays: None  
Abstain: None  
Absent: None

Stephen Yellin of Dogwood Lane referred to correspondence received from the Township of Warren regarding the amendment of their zoning in certain districts. He wanted to know more about where these districts are.

Mayor Bruno responded Mr. Yellin could receive a copy of this ordinance so he can find out more about it. Mayor Bruno asked Mrs. Minkoff to email a copy of this ordinance to Mr. Yellin.

Carol Matula of 5 Hastings Road said at the last meeting two gentlemen spoke during the Conference Session about the intersection of Hamilton Avenue and Snyder Avenue and the accidents that have



occurred there. This was not listed on the agenda for discussion. She asked what the criteria is for items listed on the Conference Session of the Township Council meeting.

Joseph Sordillo, Township Attorney responded there is no specific written policy as to how items should appear on the Conference Session. The agenda is set by the Mayor. At that particular meeting, the Acting Mayor was Council President Hall and the two gentlemen approached him and asked if they could speak.

Mrs. Matula of 5 Hastings Road said Mr. Foregger had received some invoices through an OPRA request. She saw a number of charges for Westlaw. She asked if there is a flat rate for Westlaw.

Joseph Sordillo responded it depends. He doesn't have a flat rate. We have different billing procedures depending on what you are looking for. Mr. Sordillo explained further in more detail.

Hearing no voices, moved by Mrs. Kingsley to close the Citizens Hearing, seconded by Mr. Hall and upon roll call vote:

Ayes:	Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff, Mrs. Kingsley and Mr. Hall
Nays:	None
Abstain:	None
Absent:	None

#### **ADJOURNMENT**

Moved by Mr. Delia to adjourn, seconded by Mr. Hall and upon roll call vote:  
**(9:16 p.m.)**

Ayes:	Mr. Delia, Mr. Pastore, Mr. Pirone, Mr. Woodruff, Mrs. Kingsley and Mr. Hall
Nays:	None
Abstain:	None
Absent:	None

**Approved:     October 8, 2013**